

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

DANIEL ZACHARY HARPER,

Plaintiff,

Civ. No. 2:21-cv-00184-MK

v.

ORDER

S. WASHBURN,

Defendant.

MCSHANE, Judge:

Magistrate Judge Mustafa Kasubhai filed a Findings and Recommendation (ECF No. 26), and the matter is now before this court. *See* 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). Petitioner filed objections to the Findings and Recommendation. ECF Nos. 28. Accordingly, I have reviewed the file of this case *de novo*. *See* 28 U.S.C. § 636(b)(1)(c); *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The Court finds no error and concludes the report is correct. Magistrate Judge Kasubhai's Findings and Recommendation (ECF No. 26) is ADOPTED and the petition (ECF No. 2) is DENIED and this action is DISMISSED, with prejudice. Petitioner's motion for an evidentiary

hearing (ECF No. 29) is DENIED. This Court declines to consider arguments or evidence not presented to Magistrate Judge Kasubhai in the first instance.

IT IS SO ORDERED.

DATED this 14th day of February 2022.

/s/ Michael J. McShane
Michael McShane
United States District Judge